

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05CV64-MU-02

DAVID LEE SMITH, on behalf of him-)
self and all others similarly)
situated,)
Plaintiffs,)

v.)

ORDER

THE STATE OF NORTH CAROLINA;)
GOVERNOR MICHAEL EASLEY;)
THE COUNTY OF LEE, NORTH CAROLINA;)
and)
SHERIFF BILLY BRYANT,)
Defendants.)

THIS MATTER comes before the Court on plaintiffs' document captioned as "Motion: Injunction Pending Appeal Pursuant To Fed. Rule App.Proc. Rule 8(a)(1)C)," filed April 18, 2005. For the reasons stated herein, the subject Motion will be denied.

According to pertinent Court records, on February 15, 2005, the plaintiffs, through named plaintiff David Lee Smith, filed a civil rights action under 42 U.S.C. §1983 in this Court. However, inasmuch as the plaintiffs' Complaint revealed that their allegations related exclusively to treatment which they reportedly endured in Lee County, North Carolina, this Court transferred the plaintiffs' case to the Federal District Court for the Middle District of North Carolina (see this Court's Order of February

18, 2005, document # 2).

Notwithstanding that critical fact, the plaintiffs have continued to file documents in this Court, including the instant Motion for injunctive relief. Nevertheless, because the plaintiffs no longer have a case pending in this District, and this Court lacks authority to enter an Order in a case which is pending within another judicial district, the plaintiffs' Motion will be denied.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The plaintiffs' Motion for an Injunction is **DENIED**; and
2. The Clerk shall send copies of this Order to the named plaintiff, David Lee Smith; to the Clerk of Court for the Middle District of North Carolina; and to the Clerk of the Fourth Circuit Court of Appeals.

SO ORDERED.

Signed: June 9, 2005

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
Chief United States District Judge

